WP(C) 4029/2005

BEFORE

THE HON'BLE MR JUSTICE IA ANSARI

Heard Dr. BP Todi, learned Senior counsel for the petitioner, and Mr. KN Choudhury, learned Additional Advocate General, appearing on behalf of the respondents.

By order, dated 05-03-2005, Superintendent of Taxes, Karimganj, directed the petitioner to show cause against the provisional assessment, made under Section 17(1) of the Assam General Sales Tax Act, 1993, in respect of the financial year 2004-05, for allegedly not disclosing the value of the goods, which were subject to payment of the State Sales Tax. Responding to the notice to show cause, the petitioner submitted its reply disowning the liability and contending, inter alia, that the goods, shown to have been brought by the petitioner to the State of Assam, had actually not been brought by the petitioner. Before, however, any final order could be passed, in the matter, by the Superintendent of Taxes, Karimganj, the petitioner came to this Court with this application, made under Article 226, alleging, inter alia, that the Superintendent of Taxes, Karimganj, had illegally stopped issuing statutory forms in terms of the requirements of Rule 47(j) of the Assam General Sales Tax Rule, 1993. While the matter was pending in this Court, an inquiry has already been made by the Department concerned. The findings of this inquiry have, however, not been made known to the petitioner. It is, at this stage, that this writ petition has been taken up, as sought for by the learned counsel for the parties concerned, for final disposal with appropriate directions.

Considering the matter in its entirety and in the interest of justice, it is hereby directed that the Superintendent of Taxes, Karimganj, shall consider the petitioner's reply to the show cause notice, dated 09-03-2005, and pass, upon making such inquiry, as may be necessary or upon such materials as may have come or may come to light, necessary order making the assessment of taxes, if any, payable by the petitioner. The exercise, so directed, shall be completed after giving to the petitioner such further opportunity as may be required in law. The exercise, as directed, shall be completed within a period of one month from the date of receipt of a certified copy of this order by the Superintendent of Taxes, Karimganj. If the petitioner feels aggrieved by the decision, which the Superintendent of Taxes, Karimganj, may arrive at or the assessment order or any other order(s), which the Superintendent of Taxes, Karimganj, may pass, the petitioner shall be at liberty to take recourse to such provisions of law as may be permissible. As far as the non-issuance of statutory forms by the Superintendent of Taxes, Karimganj, is concerned, it is hereby made clear that the dispute of liability to pay sales tax by the petitioner shall not ipso facto dis-entitle the petitioner from receiving the statutory forms and, hence, the Superintendent of Taxes, Karimganj, shall deal with the request of the petitioner for statutory forms in accordance with law and pass appropriate order(s) by protecting, if necessary, the interest of the State by demanding such additional security as may be permissible in law.

With the above observations and directions, this writ petition shall stand disposed of. No order as to costs.